

DEFENDANT'S EXHIBIT 1

CITY OF BALTIMORE
ORDINANCE 04 - 859
Council Bill 04-1420

Introduced by: Councilmembers Branch, Carter
At the request of: Capital Development, LLC
Address: c/o Stanley S. Fine, Esquire, 25 South Charles Street, Suite 2115, Baltimore,
Maryland 21201
Telephone: 410-727-6600

Introduced and read first time: June 14, 2004
Assigned to: Land Use and Planning Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: November 8, 2004

AN ORDINANCE CONCERNING

1 Planned Unit Development — Designation —
2 1950 East Fayette Street, 1951 East Fayette Street, and
3 1921-1939 Orleans Street

4 FOR the purpose of approving the application of Capital Development, LLC, and Dell House,
5 LLC, which are the owners of certain properties known as 1950 East Fayette Street, 1951
6 East Fayette Street, and 1921-1939 Orleans Street (collectively, the "Property"), to have the
7 Property designated a Residential Planned Unit Development, and approving the
8 Development Plan submitted by the applicant.

9 By authority of:
10 Article - Zoning
11 Title 9, Subtitles 1 and 2
12 Baltimore City Revised Code
13 (Edition 2000)

14 Recitals

15 Capital Development, LLC, is the fee simple owner of properties known as 1950 East
16 Fayette Street and 1951 East Fayette Street. Dell House, LLC, is the owner of the leasehold
17 interest in the property known as 1921-1939 Orleans Street. The properties known as 1950 East
18 Fayette Street, 1951 East Fayette Street and 1921-1939 Orleans Street are collectively referred to
19 as "the Property," consisting of 1.14 acres, more or less. Capital Development, LLC, plans to
20 develop the Property for business and residential uses.

21 On May 26, 2004, representatives of the applicant met with the Department of Planning for a
22 preliminary conference, to explain the scope and nature of existing and proposed development on

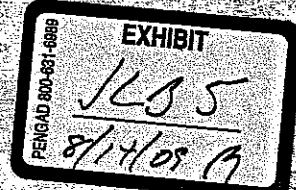
EXPLANATION: CAPITALS indicate matter added to existing law.

[Brackets] indicate matter deleted from existing law.

Underlining indicates matter added to the bill by amendment.

Strike-out indicates matter stricken from the bill by

amendment or deleted from existing law by amendment.



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the Property and to institute proceedings to have the Property designated a Residential Planned Unit Development.

The representatives of the applicant have now applied to the Baltimore City Council for designation of the Property as a Residential Planned Unit Development, and they have submitted a Development Plan intended to satisfy the requirements of Title 9, Subtitles 1 and 2 of the Baltimore City Zoning Code.

SECTION L: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE: That the Mayor and City Council approves the application of Capital Development, LLC, and Dell House, LLC, to designate the properties known as 1950 East Fayette Street, 1951 East Fayette Street, and 1921-1939 Orleans Street consisting of 11.14 acres, more or less, as outlined on the accompanying Development Plan entitled "Orleans, Wolfe, Baltimore & Washington Streets PUD" consisting of Sheet 1, "Existing Conditions Plan" dated May 24, 2004 and Sheet 2, "Proposed Conditions Plan" dated May 24, 2004, as revised September 17, 2004, Sheet 3, "Illustrative Site Plan" dated September 17, 2004, Sheet 4, "Illustrative Development Plan & Urban Design Guidelines" dated September 17, 2004, and Sheet 5, "Streetscapes & Design Goals" dated September 17, 2004, to designate the Property a Residential Planned Unit Development under Title 9, Subtitles 1 and 2 of the Baltimore City Zoning Code.

SECTION 2. AND BE IT FURTHER ORDAINED, That the Development Plan submitted by the applicant is approved.

SECTION 3. AND BE IT FURTHER ORDERED: That in accordance with the provisions of Title 9, Subtitles 1 and 2, the following uses are allowed within the Planned Unit Development:

- (a) All permitted, accessory, and conditional uses as allowed in the R-8 Zoning District.
- (b) In addition, the following uses are permitted only on the ground, first, and second floors of all buildings within Areas B and C of the Planned Unit Development:
 - art and school-supply stores; automatic teller machines; banks and savings and loan associations; barber shops; beauty shops; book stores; general camera and photographic supply stores; candy and ice cream stores; carryout food shops; clothing shops; drug store or pharmacy; dry cleaning and laundry receiving stations - processing done elsewhere; financial institutions; florist shops; food stores; grocery stores; bakeries and delicatessens; gift and card shops; massage therapists' offices; newsstands; offices - business, governmental, and professional; office supply stores; outdoor table service when accessory to a restaurant; photographic printing and development establishments; picture framing shops - retail on premises; tailor or dressmaking shops; restaurants; and tobacco shops.
- (c) In addition, the following uses are permitted on all floors of all buildings within Area C of the Planned Unit Development:
 - arts and crafts work; computer centers; day nurseries and nursery schools; medical and dental clinics; offices - business, governmental, and professional; philanthropic and charitable institutions; physical culture and health services - gymsnasiums, reducing salons, and public baths; radio and television antennas and towers no more than 25 feet above the building on which they are mounted - but not including

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1 microwave antennas; secretarial and telephone answering services; travel bureaus;
2 and warehousing and storage.

3 (d) In addition, parking, open off-street areas, other than accessory, for the parking of 4 or
4 more automobiles is permitted within Area B and Area C of the Planned Unit
5 Development.

6 (e) Overall retail square footage in the Planned Unit Development area is limited to
7 60,000 square feet, with a limit of 12,000 square feet per retail establishment.

8 (f) Overall office square footage is limited to 240,000 square feet.

9 (g) A maximum of 786 dwelling units is allowed within the Planned Unit Development
10 area.

11 (h) The aggregate net area for all buildings and uses in the Planned Unit Development
12 may not exceed 1,261,906 square feet.

13 **SECTION 4. AND BE IT FURTHER ORDAINED**, That the City of Baltimore is working to
14 provide left turn bays on Orleans Street to southbound Wolfe Street and northbound Washington
15 Street. The developer will work cooperatively with the City of Baltimore to accommodate these
16 turn bays. The goal is to accommodate the left turn bays using the minimum possible front
17 Area C along Orleans Street. The maximum to be used is 11 feet. On Sheet 2, "Proposed
18 Conditions," Area C allows a 140-foot width for the area designated as having a 170-foot
19 maximum height. This maximum height area will shift to the south should the City implement
20 the left turn bay. The 170 foot maximum height area will remain 140 feet wide, and the distance
21 of the shift will correlate to the area needed to accommodate the left turn bays.

22 **SECTION 4.5. AND BE IT FURTHER ORDAINED**, That all plans for the construction of
23 permanent improvements on the property are subject to final design approval by the Planning
24 Commission to insure that the plans are consistent with the Development Plan and this
25 Ordinance.

26 **SECTION 5.6. AND BE IT FURTHER ORDAINED**, That the Planning Department may determine
27 what constitutes minor or major modifications to the Plan. Minor modifications require approval
28 by the Planning Commission. Major modifications require approval by Ordinance.

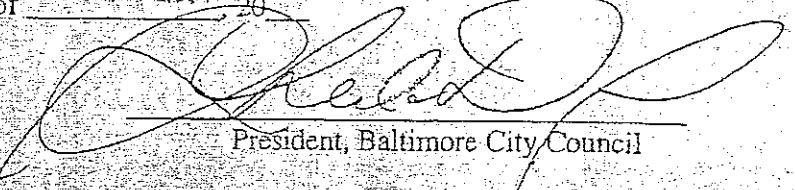
29 **SECTION 6.7. AND BE IT FURTHER ORDAINED**, That as evidence of the authenticity of the
30 accompanying Development Plan and in order to give notice to the agencies that administer the
31 City Zoning Ordinance: (i) when the City Council passes this Ordinance, the President of the
32 City Council shall sign the Development Plan; (ii) when the Mayor approves this Ordinance, the
33 Mayor shall sign the Development Plan; and (iii) the Director of Finance then shall transmit a
34 copy of this Ordinance and the Development Plan to the Board of Municipal and Zoning
35 Appeals, the Planning Commission, the Commissioner of Housing and Community
36 Development, the Supervisor of Assessments for Baltimore City, and the Zoning Administrator.

37 **SECTION 7.8. AND BE IT FURTHER ORDAINED**, That this Ordinance takes effect on the 30th
38 day after the date it is enacted.

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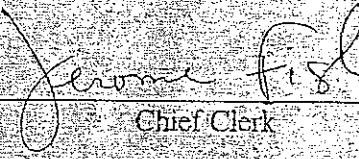
Certified as duly passed this _____ day of _____

May 2004


President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this _____ day of _____ 20____


Chief Clerk

Approved this 13 day of May, 2004


Mayor, Baltimore City

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DIRECTOR OF FINANCIAL
SERVICES